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EXAMINER

ZERR, JOHN W

| ART UNIT | PAPER NUMBER |
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3644

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,461

Applicant(s)

KIRCH, ROBERT J.

Examiner

John W. Zerr

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-29 is/are allowed.
- 6) ☒ Claim(s) 1-22 and 30-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/4/03, 1/14/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 31 is objected to because of the following informalities: in line 1 "31" should be replaced with ---30---. Appropriate correction is required.

Drawings

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: a means for releasably connecting at least one rung to a bird cage that is biased in a closed configuration (Claim 32) or a clasp member comprising a cap and base members connecting a rung to a cage wire that acts as a locking connection and is biased in a closed configuration (Claim 36). Applicant does disclose an embodiment wherein a clasp releasably connects a rung to a cage wire however not explanation is made as to how this embodiment is biased to a closed configuration.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claims 32 and 36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims are directed to a mechanism that releasably connects a ladder rung to a cage wire that is biased into a closed configuration. Applicant discloses an embodiment that releasably connects a rung to a cage wire but is not biased into any particular configuration that the Examiner can discern. No mechanism is disclosed that connects a rung to a wire member and is biased into a closed configuration.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-12, 30, 31 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherry (USPT 2,690,159) in view of “Snaps, Spring Snaps, Snap Hooks” UMX (cited by Applicant).

Regarding Claim 1 Sherry teaches a ladder (46) used with a birdcage comprising a first rung support member, a second rung support member, at least one rung connected with the two support members. First and second eyelets (44) are connected with the first and second rung support members (see Figures 1 & 2 and column 3 lines 34-42). Sherry does not teach first and second clip hooks having a first arm biased in a first closed configuration and connected with the first and second eyelets. “Snaps, Spring Snaps, Snap Hooks” UMX teaches clip hooks (S series)

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that comprise a first arm biased into a closed configuration (see page 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add clip hooks as taught connected to the eyelets on the ladder of Sherry for the purpose of removably coupling the ladder to its support.

Regarding Claim 2 Sherry teaches the ladder (46) comprises a plurality of rungs.

Regarding Claims 3-6 Sherry teaches the eyelets (44) each comprise a screw portion screwed into the rung support members such that a longitudinal axis of the screw portion is substantially parallel to the longitudinal axis of the rung support members.

Regarding Claims 7 and 8 the clip hooks are constructed of a single piece of bent metal in a shape that defines a first arcuate portion, a straight portion, a second arcuate portion and the first arm.

Regarding Claim 9 Sherry teaches a ladder (46) used with a birdcage comprising a first rung support member, a second rung support member, at least one rung connected with the two support members. First and second ring members (44) are connected with the first and second rung support members (see Figures 1 & 2 and column 3 lines 34-42). Sherry does not teach first and second clip hooks having a first arm biased in a first closed configuration and connected with the first and second ring members. "Snaps, Spring Snaps, Snap Hooks" UMX teaches clip hooks (S series) that comprise a first arm biased into a closed configuration (see page 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add clip hooks as taught connected to the ring members on the ladder of Sherry for the purpose of removably coupling the ladder to its support.

Regarding Claim 10 Sherry teaches the ladder (46) comprises a plurality of rungs.

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Regarding Claims 11 and 12 Sherry does not teach that the ring members comprise first and second insertion portions and an arcuate portion with the first and second insertion portions are connected with at least one hole in the first and second rung support members. “Snaps, Spring Snaps, Snap Hooks” UMX teaches D-rings (SB series and Y-05) that comprise first and second insertion portions and an arcuate portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the ring members taught by Sherry with D-rings connected with at least one hole in the rung support members as a substitution of functional equivalents.

Regarding Claims 30 and 31 Sherry teaches a ladder (46) used with a birdcage comprising a first rung support member, a second rung support member, at least one rung connected with the two support members. First and second eyelets (44) are connected with the first and second rung support members (see Figures 1 & 2 and column 3 lines 34-42). Sherry does not teach a means for releasably connecting the ladder to a birdcage wherein that means is biased in a closed configuration and releasably connects the first and second rung support members to the birdcage. “Snaps, Spring Snaps, Snap Hooks” UMX teaches clip hooks (S series) that comprise a first arm biased into a closed configuration (see page 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add clip hooks as taught connected to the eyelets on the ladder of Sherry for the purpose of removably coupling the ladder to its support.

Regarding Claims 33-35 Sherry teaches a ladder (46) used with a bird cage comprising a first rung support member, a second rung support member, at least one rung connected with the two support members. First and second eyelets or ring members (44) are connected with the first

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and second rung support members to connect the ladder (46) to a birdcage (10) (see Figures 1 & 2 and column 3 lines 34-42). Sherry does not teach a locking connection mechanism biased in a closed configuration connecting the ladder to the bird cage with the mechanism comprising first and second clip hooks having a first arm biased in a first closed configuration and connected with the first and second eyelets. "Snaps, Spring Snaps, Snap Hooks" UMX teaches clip hooks (S series) useful as a locking connection mechanism that comprise a first arm biased into a closed configuration (see page 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add clip hooks as taught connected to the eyelets or ring members on the ladder of Sherry for the purpose of removably coupling the ladder to its support.

8. Claims 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherry in view of "Bolt Snaps, O-Rings, D-Rings, Tri-Rings, Snap Hooks" UMX (cited by Applicant).

Regarding Claim 13 Sherry teaches a ladder (46) used with a birdcage comprising a first rung support member, a second rung support member and at least one rung connected with the rung support members. First and second eyelets (44) are connected with the first and second rung support members (see Figures 1 & 2 and column 3 lines 34-42). Sherry does not teach first and second hooks connected with the rung support members comprising a first arm biased in a closed configuration. "Bolt Snaps, O-Rings, D-Rings, Tri-Rings, Snap Hooks" UMX teaches a hook (200) comprising a first arm biased in a closed configuration (see page 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add hooks as taught connected to the eyelets on the ladder of Sherry for the purpose of removably coupling the ladder to its support.

Regarding Claim 14 Sherry teaches the ladder (46) comprises a plurality of rungs.

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Regarding Claims 15, 16, 19 and 20 Sherry teaches the eyelets (44) each comprise a screw portion screwed into the rung support members such that a longitudinal axis of the screw portion is substantially parallel to the longitudinal axis of the rung support members.

Regarding Claims 17, 18, 21 and 22 the hooks comprise a base portion connected with the screw portion, an arcuate hook portion connected with the base portion, the first arm connected with the base portion, and a spring connected with the first arm and base portion forcing the first arm against the hook portion.

Claims 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherry in view of Hayman (USPT 6,044,930, cited by Applicant). Sherry teaches a ladder (46) used with a bird cage that comprises a first rung support member, a second rung support member and at least one rung connected with the first rung support member (see Figures 1 & 2 and column 3 lines 34-42). Sherry does not teach a means for releasably connecting the ladder to a bird cage biased in a closed configuration wherein the means comprises a means to releasably connecting the at least one rung to a bird cage. Hayman teaches a stabilizing bracket for a ladder or the like comprising a means (1) for releasably connecting a rung (24) to a support member (27) that is biased in a closed configuration (see Figures 1-5 and column 3 line 12-column 4 line 44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the stabilizing bracket taught by Hayman to connect the ladder of Sherry with its support for the purpose of removably coupling the ladder to its support.

Allowable Subject Matter

9. Claims 23-29 are allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee (USPT 5,474,025) discloses animal furniture comprising a ladder mechanism and members for attaching the furniture to a wire cage. Montecer (USPT 6,651,776) discloses a portable boat boarding ladder comprising clip members attached to the rung supports. Proulx (USPT 4,919,182) discloses a motor vehicle emergency tire traction improvement device consisting of polymeric rope comprising clip members attached to the ends of the ladder. Pyle (USPT 4,090,587) discloses a ladder lock comprising a ring member attached to a rung that attaches a horizontal support. Segal (USPT 5,413,068) discloses a portable bird play gym comprising ladders. Voss (USPT 3,029,788) discloses a birdcage comprising a ladder. Sakai (JP 7227170) discloses a perch member and playing tool comprising a ladder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John W. Zerr whose telephone number is (703) 306-0153. The examiner can normally be reached on M-Th. 8:00am-5:30pm, F 8:00am-4:30pm, alt. F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703) 306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWZ
3/20/04

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